

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:
Arlene Chism

Debtor.

Chapter 13 No. 11-44530

Hon. Thomas J. Tucker

OBJECTIONS TO CONFIRMATION

NOW COMES Chase Home Finance LLC, by and through their attorneys, Trott & Trott, P.C., and hereby Objects to Confirmation as follows:

1. That Creditor is a holder of a mortgage on real property owned by the debtor(s) and located at 19300 Stahelin Ave, Detroit, MI 48219-2738;
2. That the mortgage is in material default pursuant to the Proof of Claim filed by Creditor;
3. That the Debtor alleges that this property is used as rental property;
4. That the Debtor's Plan of Reorganization proposes to "cram down" Creditor's claim under 11 U.S.C. 1325(a)(5);
5. That pursuant to 11 U.S.C. §1325(a)(5)(B)(ii), the Debtor is required to provide Creditor with equal monthly payments, over the life of the plan, that will total the present value of the collateral;
6. That the value of Creditor's secured claim is governed by 11 U.S.C. § 506(a)(1) which provides that "[a]n allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim. *Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property*, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest." *Assocs. Commer. Corp. v. Rash*, 520 U.S. 953, 960 (U.S. 1997).
7. That the Debtor has failed to provide any evidence to support the stated proposed value of the property and proposed modified terms appear to attempt to garner a windfall to the Debtor by the continued retention and use of the collateral at the expense of the Creditor;

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8. That the Debtor has failed to propose an interest rate that would be obtained by the Debtor for a non-owner occupied loan on equivalent terms on the open market, nor does the Debtor include an appropriate factor representing the Creditor's risk associated with the Debtor's proposed continued use of the property;

9. That the Debtor may have either omitted material information or provided the Creditor materially false, misleading, or inaccurate information in connection with the loan application, including, but not limited to representations concerning Borrower's occupancy of the Property as Borrower's principal residence;

10. That Creditor may request some or all of the following from the Debtor:

- reasonable access to the interior of the property so that a full and complete appraisal may be obtained to fully determine the value of the property as an income producing unit;
- information with respect to the occupancy status of the property and the monthly rent collected from the tenant
- information with respect to business expenses related to the use of the property as a rental unit

11. That the mortgage is currently escrowed; however, in the event the Debtor's proposed plan is confirmed with a cram down provision, the Debtor shall become responsible for the payment of taxes and insurance with respect to the property; therefore, the Debtor must adequately budget for tax and insurance requirements for this property;

12. That the proposed dividend that the Debtor proposes to pay to the unsecured creditors lacks support or raises questions with respect to the good faith of Debtor in filing this Plan;

13. That Schedule J lists unreasonable expenses and if those unreasonable expenses are reduced or eliminated, the dividend to unsecured creditors may be increased;

14. That the Creditor seeks conversion or dismissal of the case, as appropriate, under 11 U.S.C. §1307(c);

15. That the debtor's proposed Plan of Reorganization is underfunded and infeasible;

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WHEREFORE, Creditor prays that Confirmation be denied and that the Debtor's case be dismissed or converted as appropriate under 11 U.S.C. § 1307(c).

Respectfully Submitted,
Trott & Trott, P.C.

Dated: March 25, 2011

/S/ D. Lisa Evans (P69639)
/S/ Laura M. Hawley (P71064)
/S/ Shawn C. Drummond (P58471)
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